UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
LAZARO, DAVID R

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
	09/759,089	DONAHUE, THOMAS P.
Office Action Summary	Examiner	Art Unit	
	David Lazaro	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 October 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4 and 6-64_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4 and 6-64_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the amendment filed 10/18/04.

2.   Claims 1, 25, 26, 34, 55 and 62-64 were amended.

3.   Claims 1-4 and 6-64 are pending in this Office Action.

Response to Amendment

4.   The objection to the Oath/Declaration stands.

5.   The objection to Claim 55 is withdrawn.

6.   The rejections of Claim 62-65 under 35 U.S.C. §112, second paragraph, are with

drawn.

7.   Applicant's arguments with respect to Claims 1 and 34 have been considered but are

moot in view of the new ground(s) of rejection.

8.   Applicant's remaining arguments have been fully considered but they are not

persuasive.

9.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action.

Oath/Declaration

10.   Applicant believes a new oath is not required as the correct priority date is listed in

the first paragraph of the specification and that identification of the U.S. provisional

application in the oath or declaration is not required by 37 CFR 1.63. Regardless of such,

Applicant has chosen to include such information in the Oath/Declaration along with the

statement that all statements made within the Oath/Declaration are true. This is obviously

provisional

not the case as there is a clear inaccuracy with the U.S. application filing date. As such, a

supplemental oath (see 37 CFR 1.67) is required to either correct or remove the U.S.

provisional application information.

> 37 CFR 1.67. Supplemental oath or declaration.
>
> (a)   The Office may require, or inventors and applicants may submit, a
> supplemental oath or declaration meeting the requirements of § 1.63 or § 1.162 to
> correct any deficiencies or inaccuracies present in the earlier filed oath or
> declaration.

Claim Rejections - 35 USC § 112

11.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to
> which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the
> best mode contemplated by the inventor of carrying out his invention.

12.   Claims 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with

the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the

relevant art that the inventor(s), at the time the application was filed, had possession of the

claimed invention. Claim 1 states the limitation "monitoring transport layer network

communications". In regards to monitoring, the specification does not describe the

monitoring of any one particular layer. On page 4, lines 11-12, the specification describes

software that allows "for monitoring and storing raw TCP/IP data". On page 3, lines 1-2, the

specification states, "The present invention monitors all Transport Control Protocol/Internet

Protocol (TCP/IP) network communications." TCP/IP is also known as the Internet protocol

suite since the protocols making up the suite commonly implement the protocol stack on

which the Internet runs. The protocols of TCP/IP function across the different layers of the

stack.   However, the specification does not specifically describe monitoring the transport

layer network communications or any layer in particular. Therefore, Claim 1 fails to comply

with the written description requirement.

13.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

14.   Claims 1 and 34 rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

15.   Both claims 1 and 34 include the limitation "half sessions". This limitation is

described in relation to network data or communications. The examiner is not sure as to

how the Applicant defines a "half session" as the specification lacks a definition, either

explicit or implied, in regards to this terminology. The specification only states, on page 4,

lines 14-15, "During monitoring and storing, the program listens to the Ethernet interface in

promiscuous mode, storing each TCP/IP half-session to its own file or log on disk."

(emphasis added). Typically, a "half-session" is related to an IBM proprietary

communication protocol called Systems Network Architecture (SNA) as well as IBM's

Information Management Systems (IMS). In relation to SNA, a "half-session" basically

describes a program or terminal that makes up part of a session. The instant application

does not seem to be related to such a definition. Another similar term is a "half-open"

session or a "TCP half session". These relates to a TCP session where one side of the

connection is closed without the knowledge of the other side knowing. Particularly, a "TCP

half session" is where the server receives a SYN from a client and responds with the

SYN_ACK, but never receives the ACK back from the client. This usually relates to

discussions of SYN attacks. The instant application does not seem to be related to these

terms either. As such, claims 1 and 34 fail to particularly point out and distinctly claim this

subject matter and are therefore indefinite. For purpose of rejection, the examiner will

consider "half sessions" to be part of network communications that are incoming

communications (the incoming "half" of a communication session).

Claim Rejections - 35 USC § 102

16.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another
> filed in the United States before the invention by the applicant for patent or (2) a patent granted on an
> application for patent by another filed in the United States before the invention by the applicant for patent,
> except that an international application filed under the treaty defined in section 351(a) shall have the effects
> for purposes of this subsection of an application filed in the United States only if the international application
> designated the United States and was published under Article 21(2) of such treaty in the English language.

17.   Claims 34-35, 37-39, 44, 47-50, 52-55, 57, 58 and 60-64 are rejected under 35

U.S.C. 102(e) as being anticipated by U.S. Patent 6,266,664 by Russell-Falla et al.

(Russell-Falla).

18.   With respect to Claim 34, Russell-Falla teaches a method for monitoring and

maintaining an acceptable use policy for computer network usage (Col. 1 lines 26-34)

comprising: a. capturing data on a network (Col. 4 line 61 – Col. 5 line 4) wherein the data

comprises multiple half sessions (Col. 4 line61 - Col. 5 line 4, As noted above, the examiner

interprets "half sessions" to be part of network communications that are incoming

communications) of transport layer network communications (It is inherent that any network

communication data on a network such as the Internet/Web -Col. 4 line 61 - Col. 5 line 21

and Col. 1 lines 37-45 - would comprise multiple half sessions of transport layer network

communications); b. removing data content that does not contain language elements (Col. 5

lines 5-11); c. testing the remaining content for the presence of predetermined expressions

(Col. 5 lines 5-11); d. maintaining a sum of values associated with said predetermined

expressions found within at least one category (Col. 3 line 65 – Col. 4 line 3); e. storing the

remaining data if the sum of values associated with said predetermined expressions within

a category meets or exceeds a threshold value (Col. 5 lines 47-64 and Col. 6 lines 29-34).

19.   With respect to Claim 35, Russell-Falla teaches all the limitations of Claim 34 and

further teaches the computer network is a wide area network (Col. 1 lines 37-45 of Russell-

Falla).

20.   With respect to Claim 37, Russell-Falla teaches all the limitations of Claim 34 and

further teaches the computer network is a TCP/IP network (Col. 1 lines 37-45 of Russell-

Falla).

21.   With respect to Claim 38, Russell-Falla teaches all the limitations of Claim 34 and

further teaches said expressions are weighted (Col. 3 lines 55-67 of Russell-Falla).

22.   With respect to Claim 39, Russell-Falla teaches all the limitations of Claim 38 and

further teaches said expressions are weighted with either positive or negative values (Col. 3

line 60 – Col. 4 line 3 of Russell-Falla).

23.   With respect to Claim 44, Russell-Falla teaches all the limitations of Claim 34 and

further teaches said expressions are regular expressions (Col. 3 lines 1-6 of Russell-Falla).

24.   With respect to Claim 47, Russell-Falla teaches all the limitations of Claim 35 and

further teaches said threshold value for a category is variable (Col. 5 lines 47-63 of Russell-

Falla).

25.   With respect to Claim 48, Russell-Falla teaches all the limitations of Claim 48 and

further teaches outputting a report relating to the presence of predetermined expressions

(Col. 6 lines 29-34 of Russell-Falla).

26.   With respect to Claim 49, Russell-Falla teaches all the limitations of Claim 48 and

further teaches said report identifies individuals whose use of the computer network

included communications which matched predetermined expressions (Col. 6 line 29-34,

note the functionality of the report in Russell-Falla is tied to a user - Col. 6 lines 15-21 of

Russell-Falla).

27.   With respect to Claim 50, Russell-Falla teaches all the limitations of Claim 48 and

further teaches said report identifies network addresses where communications were

received or originated that included matched predetermined expressions (Col. 6 lines 29-34

of Russell-Falla).

28.   With respect to Claim 52, Russell-Falla teaches all the limitations of Claim 50 and

further teaches said report is in a graphical format (Col. 9 lines 1-8 of Russell-Falla).

29.   With respect to Claim 53, Russell-Falla teaches all the limitations of Claim 48 and

further teaches said report provides the text of all communications that match said

preselected criterion (Col. 6 lines 29-34 of Russell-Falla).

30.   With respect to Claim 54, Russell-Falla teaches all the limitations of Claim 48 and

further teaches said report is human readable format (Col. 6 lines 29-34 of Russell-Falla).

31.   With respect to Claim 55, Russell-Falla teaches a method for monitoring and

maintaining an acceptable use policy for computer network usage (Col. 1 lines 26-34)

comprising: a. capturing data on a network (Col. 4 line 61 – Col. 5 line 4); b. removing data

content that does not contain language elements (Col. 5 lines 5-11); c. defining categories

(Col. 4 lines 45-67) with weighted predetermined expressions (Col. 3 lines 36-51); c. testing

the remaining content for the presence of predetermined expressions (Col. 5 lines 5-11); d.

maintaining a sum of values associated with said predetermined expressions found within

each category (Col. 3 line 65 – Col. 4 line 3); e. storing the remaining data if the sum of

values associated with said predetermined expressions present within a category exceeds a

threshold value (Col. 5 lines 47-64 and Col. 6 lines 29-34).

32.   With respect to Claim 57, Russell-Falla teaches all the limitations of Claim 55 and

further teaches the threshold value for a category is defined as the presence of no

predetermined expressions (Col. 5 lines 47-64).

33.   With respect to Claim 58, Russell-Falla teaches all the limitations of Claim 55 and

further teaches the computer network is a wide area network (Col. 1 lines 37-45).

34.   With respect to Claim 60, Russell-Falla teaches all the limitations of Claim 55 and

further teaches the computer network is a TCP/IP network (Col. 1 lines 37-45).

35.   With respect to Claim 61, Russell-Falla teaches all the limitations of Claim 55 and

further teaches outputting a report relating to the presence of predetermined expressions

whose sum meets or exceed the threshold value of a category (Col. 6 lines 29-34).

36.   With respect to Claim 62, Russell-Falla teaches all the limitations of Claim 61 and

further teaches said report identifies individuals whose use of the computer network

included communications which contained predetermined expressions whose sum matched

or exceeded the threshold value of at least one category (Col. 6 line 29-34, note the
functionality of the report in Russell-Falla is tied to a user - Col. 6 lines 15-21).

37.   With respect to Claim 63, Russell-Falla teaches all the limitations of Claim 61 and
further teaches said report identifies network addresses where communications were
received or originated that included predetermined expressions whose sum matched or
exceeded the threshold value of at least one category (Col. 6 line 29-34).

38.   With respect to Claim 64, Russell-Falla teaches all the limitations of Claim 63 and
further teaches said report is in a graphical format (Col. 6 lines 29-34 and Col. 9 lines 1-8).

Claim Rejections - 35 USC § 103

39.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to
> a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

40.   Claims 1-4, 6, 7, 11-13, 15-21, 23, 27-29, 32 and 33 are rejected under 35 U.S.C.
103(a) as being unpatentable over U.S. Patent 6,266,664 by Russell-Falla et al. (Russell-
Falla) in view of U.S. Patent 6,453,345 by Trcka et al. (Trcka).

41.   With respect to Claim 1, Russell-Falla teaches in a computer network, a method of
maintaining an acceptable use policy (Col. 1 lines 26-34) comprising: monitoring network
communications (Col. 4 line 61 – Col. 5 line 4); wherein each network communication
comprises multiple half sessions (Col. 4 line61 - Col. 5 line 4, As noted above, the examiner
interprets "half sessions" to be part of network communications that are incoming
communications); storing at least some of said half sessions (Col. 5 line 1-4); testing the

stored communication for the presence of at least one preselected criterion (Col. 5 lines 5-12); deleting the communication if the presence of said at least one preselected criterion is not determined (it is inherent that the communication will be forwarded to the web browser and deleted from testing function of the proxy server when the presence is not determined – Col. 5 lines 1-14 and lines 47-65); and storing the communication if the presence of said at least one preselected criterion is determined (Col. 6 lines 29-34 and Col. 9 lines 1-8). While Russell-Falla teaches the principles of the invention may be applied to other types of digital information and protocols (Col. 5 lines 36-48), Russell-Falla is silent as to implementation at particular network layers and unknown protocols. As such, Russell-Falla does not explicitly disclose monitoring transport layer network communications, and storing half sessions on disk even when the communication does not conform to a known protocol. Trcka teaches monitoring and capturing all raw network data packets (Col. 6 lines 1-25). Since all raw network data packets are captured, this would include those of unknown protocol. These raw network data packets are stored on disk (Col. 7 lines 13-27). By capturing raw network data packets, the invention of Trcka is capable of monitoring network communications at any network layer including any protocol functioning at that layer (Col. 7 lines 28-41, Col. 7 line 49 - Col. 8 line 4 and Col. 18 lines 15-29). This would include the transport layer. It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla and modify it as indicated by Trcka such that the method further comprises monitoring transport layer network communications, wherein each network communication comprises multiple half sessions and storing at least some of said half sessions on disk, even when the communication does not conform to a known protocol. One would be motivated to have this, as it beneficial to network analysis

and troubleshooting tasks and is further advantageous over existing network security

systems (Col. 1 line 41 - Col. 2 line 9 and Col. 2 lines 49-65 of Trcka).

42.   With respect to Claim 2, Russell-Falla in view of Trcka teaches all the limitations of

Claim 1 and further teaches the preselected criterion comprises one or more subject matter

categories (Col. 4 lines 45-60 of Russell-Falla).

43.   With respect to Claim 3, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches at least some of said subject matter categories comprise

regular expressions (Col. 3 lines 1-5 of Russell-Falla).

44.   With respect to Claim 4, Russell-Falla in view of Trcka teaches all the limitations of

Claim 3 and further teaches said regular expressions are weighted (Col. 3 lines 1-9 of

Russell-Falla).

45.   With respect to Claim 6, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches the preselected criterion is weighted (Col. 3 lines 1-9 of

Russell-Falla).

46.   With respect to Claim 7, Russell-Falla in view of Trcka teaches all the limitations of

Claim 4 and further teaches said regular expressions are weighted with either positive or

negative values (Col. 3 line 60 – Col. 4 line 3 of Russell-Falla).

47.   With respect to Claim 11, Russell-Falla in view of Trcka teaches all the limitations of

Claim 1 and further teaches the computer network is a TCP/IP network (Col. 1 lines 37-45

of Russell-Falla). .

48.   With respect to Claim 12, Russell-Falla in view of Trcka teaches all the limitations of

Claim 1 and further teaches the computer network is a wide area network (Col. 1 lines 37-

45 of Russell-Falla).

49.   With respect to Claim 13, Russell-Falla in view of Trcka teaches all the limitations of

Claim 1 and further teaches the computer network is a local area network (Col. 5 lines 50-

67 of Trcka).

50.   With respect to Claim 15, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches said subject matter categories comprise key words (Col. 3 lines

1-9 of Russell-Falla).

51.   With respect to Claim 16, Russell-Falla in view of Trcka teaches all the limitations of

Claim 15 and further teaches wherein at least some of said key words are defined by the

user (Col. 2 lines 30-36 and Col. 4 lines 45-60 of Russell-Falla).

52.   With respect to Claim 17, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches assigning a threshold value to each subject matter category

(Col. 5 lines 47-64 of Russell-Falla).

53.   With respect to Claim 18, Russell-Falla in view of Trcka teaches all the limitations of

Claim 17 and further teaches at least some of said subject matter categories comprise one

or more predetermined expressions (Col. 3 lines 36-51 of Russell-Falla).

54.   With respect to Claim 19, Russell-Falla in view of Trcka teaches all the limitations of

Claim 18 and further teaches assigning a value to said predetermined expressions (Col. 3

lines 59-66 of Russell-Falla).

55.   With respect to Claim 20, Russell-Falla in view of Trcka teaches all the limitations of

Claim 19 and further teaches summing the values of said predetermined expressions (Col.

3 line 60 – Col. 4 line 3 of Russell-Falla).

56.   With respect to Claim 21, Russell-Falla in view of Trcka teaches all the limitations of

Claim 20 and further teaches said communication is further stored if the sum of values of

said predetermined expressions comprising a subject matter category equal or exceed the threshold value assigned to said subject matter category (Col. 5 lines 47-64 and Col. 6 lines 29-34 of Russell-Falla).

57.　　With respect to Claim 23, Russell-Falla in view of Trcka teaches all the limitations of Claim 21 and further teaches said threshold values assigned to said subject matter categories are variable (Col. 5 liens 47-64 of Russell-Falla).

58.　　With respect to Claim 27, Russell-Falla in view of Trcka teaches all the limitations of Claim 1 and further teaches outputting a report relating to the presence of said at least one preselected criterion (Col. 6 lines 29-34 of Russell-Falla).

59.　　With respect to Claim 28, Russell-Falla in view of Trcka teaches all the limitations of Claim 27 and further teaches said report identifies individuals whose use of the computer network included communications which matched preselected criterion (Col. 6 line 29-34, note the functionality of the report in Russell-Falla in view of Trcka is tied to a user - Col. 6 lines 15-21 of Russell-Falla).

60.　　With respect to Claim 29, Russell-Falla in view of Trcka teaches all the limitations of Claim 27 and further teaches said report identifies network addresses where communications were received or originated that included matched preselected criterion (Col. 6 lines 29-34 of Russell-Falla).

61.　　With respect to Claim 32, Russell-Falla in view of Trcka teaches all the limitations of Claim 27 and further teaches said report provides the text of all communications that match said preselected criterion (Col. 6 lines 29-34 of Russell-Falla).

62.   With respect to Claim 33, Russell-Falla in view of Trcka teaches all the limitations of

Claim 27 and further teaches said report is human readable format (Col. 6 lines 29-34 of

Russell-Falla).

63.   Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Russell-Falla in view of Trcka.

64.   With respect to Claim 30, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches outputting a report relating to the presence of preselected

criterion (Col. 6 lines 29-34 and Col. 9 lines 1-8 of Russell-Falla). Russell-Falla in view of

Trcka does not explicitly disclose the report identifying the number of matches in a category.

However, it is implied by Russell-Falla in view of Trcka that the report would indicate the

number matches in a category as suggested by the alternate embodiments which provide

for filing references of the content of concern and storing a presentation schema (Col. 8 line

30 – Col. 9 line 15 of Russell-Falla). Furthermore, the reviewer such as the administrator

(Col. 6 lines 29-34 of Russell-Falla) would need some indication as to the significance of the

report in terms of evaluating the content. Therefore it would have been obvious to one of

ordinary skill in the art at the time the invention was made to take the method disclosed by

Russell-Falla in view of Trcka and modify it such that said report identifies the number of

matches in a category.   One would be motivated to have this as there is need for

monitoring what persons such as employees access through a computer network (Col. 2

lines 24-44 of Russell-Falla).

65.   With respect to Claim 31, Russell-Falla teaches all the limitations of Claim 30 and

further teaches said report is in a graphical format (Col. 6 lines 29-34 and Col. 9 line 1-8 of

Russell-Falla).

66.   Claims 36, 51 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Russell-Falla.

67.   With respect to Claim 36, Russell-Falla teaches all the limitations of Claim 34. While

Russell-Falla does not explicitly state the computer network is a local area network, Russell-

Falla does state the invention is well suited for monitoring those who have managerial

responsibility for material accessed or retrieved by others such as employees (Col. 2 lines

30-36). This implies the computer network environment would include a local area network

such as those associated with work environments. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to take the method disclosed by

Russell-Falla and modify it such that the computer network is a local area network. One

would be motivated to have this as there is need for monitoring what persons such as

employees access through a computer network (Col. 2 lines 24-44).

68.   With respect to Claim 51, Russell-Falla teaches all the limitations of Claim 34 and

further teaches outputting a report relating to the presence of predetermined expressions

(Col. 6 lines 29-34 and Col. 9 lines 1-8). Russell-Falla does not explicitly disclose the report

identifying the number of matches in a category. However, it is implied by Russell-Falla that

the report would indicate the number matches in a category as suggested by the alternate

embodiments which provide for filing references of the content of concern and storing a

presentation schema (Col. 8 line 30 – Col. 9 line 15). Furthermore, the reviewer such as

the administrator (Col. 6 lines 29-34) would need some indication as to the significance of the report in terms of evaluating the content. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla and modify it such that said report identifies the number of matches in a category. One would be motivated to have this as there is need for monitoring what persons such as employees access through a computer network (Col. 2 lines 24-44).

69.   With respect to Claim 59, Russell-Falla teaches all the limitations of Claim 55. While Russell-Falla does not explicitly state the computer network is a local area network, Russell-Falla does state the invention is well suited for monitoring those who have managerial responsibility for material accessed or retrieved by others such as employees (Col. 2 lines 30-36). This implies the computer network environment would include a local area network such as those associated with work environments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla and modify it such that the computer network is a local area network. One would be motivated to have this as there is need for monitoring what persons such as employees access through a computer network (Col. 2 lines 24-44).

70.   Claims 8-10, 14, 22 and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russell-Falla in view of Trcka and in further view of U.S. Patent 6,366,910 by Rajaraman et al. (Rajaraman).

71.   With respect to Claim 8, Russell-Falla in view of Trcka teaches all the limitations of Claim 7 but does not explicitly disclose regular expressions with negative values being before regular expressions with positive value. Rajaraman teaches regular expressions

with negative values are before regular expression with positive values (Col. 7 lines 37-45 and Col. 9 lines 19-28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla in view of Trcka and modify it as indicated by Rajaraman such that regular expressions within a subject matter category having a negative value are before regular expressions having a positive value. This aids in accurately identifying the content by reducing irrelevant hits (Col. 7 lines 22-42 of Rajaraman). One would be motivated to have this as there is need for accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

72.   With respect to Claim 9, Russell-Falla in view of Trcka teaches all the limitations of Claim 4 but does not explicitly disclose prioritizing the order which regular expressions within a subject matter category are tested. Rajaraman teaches prioritizing the order which regular expressions within a subject matter category are tested (Col. 9 lines 19-28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla in view of Trcka and modify it as indicated by Rajaraman such that it further comprises prioritizing the order which regular expressions within a subject matter category are tested. This aids in accurately identifying the content by reducing irrelevant hits (Col. 7 lines 22-42 of Rajaraman). One would be motivated to have this as there is need for accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

73.   With respect to Claim 10, Russell-Falla in view of Trcka and in further view of Rajaraman teaches all the limitations of Claim 9 and further teaches said prioritizing reduces likelihood of false hits (Col. 7 lines 22-42 of Rajaraman).

74.   With respect to Claim 14, Russell-Falla in view of Trcka teaches all the limitations of

Claim 2 and further teaches preselected criterion (Col. 3 lines 1-8) and a plurality of

categories (Col. 4 lines 45-60). Russell-Falla in view of Trcka does not explicitly disclose a

presence being a match in a plurality of categories. Rajaraman teaches the presence being

a match in a plurality of categories (Col. 10 lines 22-34). It would have been obvious to one

of ordinary skill in the art at the time the invention was made to take the method disclosed

by Russell-Falla in view of Trcka and modify it as indicated by Rajaraman such that the

presence of the preselected criterion in at least one of said categories comprises a match in

a plurality of categories. One would be motivated to have this as there is need for

accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56

of Russell-Falla).

75.   With respect to Claim 22, Russell-Falla in view of Trcka teaches all the limitations of

Claim 21 and further teaches threshold values for subject matter categories (Col. 5 lines 47-

63) and a plurality of subject matter categories (Col. 4 lines 45-60). Russell-Falla in view of

Trcka does not explicitly disclose a threshold for one category equaling or exceeding the

threshold value in a plurality of categories. Rajaraman teaches a threshold for one category

equaling or exceeding the threshold value in a plurality of categories (Col. 10 lines 22-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was

made to take the method disclosed by Russell-Falla in view of Trcka and modify it as

indicated by Rajaraman such that the threshold value of at least one subject matter

category comprises equaling or exceeding the threshold value in a plurality of categories.

One would be motivated to have this as there is need for accurately and efficiently

identifying a category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

76.   With respect to Claim 24, Russell-Falla in view of Trcka teaches all the limitations of

Claim 18 but does not explicitly disclose the subject matter categories having a hierarchical

relationship. Rajaraman teaches that subject matter categories can have a hierarchical

relationship (Col. 10 lines 22-34). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to take the method disclosed by Russell-Falla in view

of Trcka and modify it as indicated by Rajaraman such that said subject matter categories

have a hierarchical relationship. One would be motivated to have this as there is need for

accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56

of Russell-Falla).

77.   With respect to Claim 25, Russell-Falla in view of Trcka and in further view of

Rajaraman teaches all the limitations of Claim 24 and further teaches said hierarchical

relationship comprises defining the threshold value for at least one subject matter category

as the presence of predetermined expressions in a plurality of other subject matter

categories (Col. 10 lines 22-34 of Rajaraman).

78.   With respect to Claim 26, Russell-Falla in view of Trcka and in further view of

Rajaraman teaches all the limitations of Claim 24 and further teaches said hierarchical

relationship comprises defining the threshold value for at least one subject matter category

as matching or exceeding the threshold value assigned to a plurality of other subject matter

categories (Col. 10 lines 22-34 of Rajaraman).

79.   Claims 40-43, 45, 46 and 56 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Russell-Falla in view of Rajaraman.

80.   With respect to Claim 40, Russell-Falla teaches all the limitations of Claim 39 but

does not explicitly disclose prioritizing the order which regular expressions within a subject

matter category are tested. Rajaraman teaches prioritizing the order which regular

expressions within a subject matter category are tested (Col. 9 lines 19-28). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to take

the method disclosed by Russell-Falla and modify it as indicated by Rajaraman such that it

further comprises prioritizing the order which regular expressions within a subject matter

category are tested. This aids in accurately identifying the content by reducing irrelevant

hits (Col. 7 lines 22-42 of Rajaraman). One would be motivated to have this as there is need

for accurately and efficiently identifying a category for which content belongs (Col. 2 lines

19-56 of Russell-Falla).

81.   With respect to Claim 41, Russell-Falla in view of Rajaraman teaches all the

limitations of Claim 40 and further teaches the negative values regular expressions are

tested first (Col. 9 lines 19-28).

82.   With respect to Claim 42, Russell-Falla in view of Rajaraman teaches all the

limitations of Claim 41 and further teaches said negative and positive valued regular

expressions are separately tested in the order of largest value to smallest value (Col. 9 lines

19-45).

83.·   With respect to Claim 43, Russell-Falla in view of Rajaraman teaches all the

limitations of Claim 40 and further teaches said prioritizing is determined based upon

reducing likelihood of false hits (Col. 7 lines 22-42 of Rajaraman). ·

84.   With respect to Claim 45, Russell-Falla teaches all the limitations of Claim 21 and

further teaches threshold values for categories (Col. 5 lines 47-63) and a plurality of

categories (Col. 4 lines 45-60). Russell-Falla does not explicitly disclose a threshold for one category meeting or exceeding the threshold value for a plurality of other categories. Rajaraman teaches a threshold for one category equaling or exceeding the threshold value in a plurality of categories (Col. 10 lines 22-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla and modify it as indicated by Rajaraman such that the threshold value for at least one category comprises meeting or exceeding the threshold value in a plurality of categories. One would be motivated to have this as there is need for accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

85. With respect to Claim 46, Russell-Falla teaches all the limitations of Claim 34 but does not explicitly disclose the threshold value of at least one category comprises meeting or exceeding the threshold value for at least one other category and not meeting or exceeding the threshold value for at least another category. Rajaraman teaches the threshold value of at least one category comprises meeting or exceeding the threshold value for at least one other category and not meeting or exceeding the threshold value for at least another category (Col. 10 lines 22-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to take the method disclosed by Russell-Falla and modify it as indicated by Rajaraman such that the threshold value of at least one category comprises meeting or exceeding the threshold value for at least one other category and not meeting or exceeding the threshold value for at least another category. One would be motivated to have this as there is need for accurately and efficiently identifying a category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

86.   With respect to Claim 56, Russell-Falla teaches all the limitations of Claim 21 and

further remaining data being stored based on the sum of predetermined expressions (Col. 3

line 56 – Col. 4 line 3). Russell-Falla does not explicitly disclose storing of the remaining

data occurring only if the sum of predetermined expressions exceeds the threshold value in

a plurality of categories. Rajaraman teaches a threshold for a plurality of categories (Col.

10 lines 22-34). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to take the method disclosed by Russell-Falla and modify it as

indicated by Rajaraman such that said remaining data is stored only if the sum of

predetermined expressions exceeds the threshold value in a plurality of categories. One

would be motivated to have this as there is need for accurately and efficiently identifying a

category for which content belongs (Col. 2 lines 19-56 of Russell-Falla).

Response to Arguments

87.   Applicant's arguments filed 10/18/04 have been fully considered but they are not

persuasive.

88.   Applicant argues (pages 11-12 of remarks) - "...The invention of claim 1 is able to
process web pages, email, file transfer protocol (FTP), or other unknown protocols because
it monitors communication at a transport level.... In contrast, Russell-Falla teaches a
system that monitors communication at the application layer, which would be necessary to
monitor an HTML web page or email."

    a.   It is interesting to note that Applicant asserts that monitoring a web page or

    email would necessarily require monitoring communication at the application layer

    after just stating the invention of claim was can process web pages and email

    because it monitors communication at a transport level. It would seem as if one

    could make the argument, then, that Russell-Fall also monitors communications at a

transport level. In any case, this argument is not persuasive and is rendered moot

based on the rejection of Claim 1 based on the combination of Russell-Falla in view

Trcka.

89.   Applicant argues (page 12) - *"Claim 1 further calls for the testing to be performed*

against "at least one preselected criterion". Russell-Falla et al. do not show using criterion

that are preselected. Instead, the criteria in Russell-Falla are determined by a neural

network based on analysis of selected web pages, not any process that directly pre-selects

the criterion." Applicant makes similar arguments in regards to claim 34 on page 13.

    b.   The examiner notes that the claim language does not state any process that

"directly pre-selects the criterion". While the neural network of Russell-Fall is used in

part to determine lists of words and weightings for a subject matter category (Col. 6

lines 36-48), the examiner does not see how this has any bearing on the meaning of

"preselected criterion". Col. 5, 5-12, specifically states, "The first analysis step 14

calls for scanning the page to identify the regular expressions, such as natural

language textual portions of the page. For each expression, the software queries a

pre-existing database 30 to determine whether or not the expression appears in the

database."(emphasis added). If there is a pre-existing database that stores the

expression (criterion) being tested for, then that criterion is preselected.

90.   Applicant argues (pages 12-13 of remarks) - *"Further, claims 2-4, 6-10 and 14- 26*

call for the preselected criterion to comprise one or more subject matter categories. The

relied on portion of Russell-Falla (Column 4, lines 45-60) teaches against the use of

categories as called for in the instant claims. Russell-Falla teaches the detection for a

"specific type of selected content", detecting content "about a particular religion or a

particular book", and the like. Hence, although Russell-Falla use the word "category", it is

clear that they only contemplate a single category of information for any particular instance of their application. In contrast, the present invention contemplates the use of plural categories which overcomes the limitation that is explicit in Russell-Falla to a "specific type", "particular religion" or "particular book".

And also on pages 13-14 of remarks - "*Claim 55 calls for, among other things, "defining categories with weighted predetermined expressions" (emphasis added) and "maintaining a sum of values associated with said predetermined expressions found within each category." These features of claim 55 are not shown or suggested in the relied on reference. As noted hereinbefore, Russell-Falla only contemplate a single category for a particular instance of their application.*"

  c. The examiner first notes that claim 2 states, "wherein the preselected criterion comprises <u>one or more</u> subject matter categories". As such, the invention as claimed is not limited to the use of plural categories and may only have one subject matter category. As such, even by the Applicant's interpretation of Russell-Falla, the teachings of Russell-Falla are within the scope of the claim limitations for claim 2 and the associated dependents.

  d. However, the examiner disagrees with Applicant's interpretation of Russell-Falla. Nowhere in Russell-Falla, is there an indication or suggestion that one making and using the invention of Russell-Fall would be restricted to analysis and detection of content in only one category. For example, the Applicant states several different applications for the Russell-Falla as evidence of restriction to a single category. On the contrary, nothing in that section (Col. 4 lines 45-60) states that only one category can be applied for "any particular instance of their application". Based on the teachings and most importantly, the underlying principles of the invention (Col. 9 lines 9-12) of Russell-Falla, one of ordinary skill in the art would easily understand that the analysis and detection process disclosed by Russell-Falla could be repeated

on the same set of data for any selected category. Obviously, if one is concerned

about the various forms of data that can be encountered in a information network

environment (Col. 2 lines 24-36), then one would not restrict or limit the detection

process to a single form (a single category). As such, the Applicants arguments are

not persuasive.

91.   Applicant argues (page 13 of remarks) - "...*Russell-Fall teaches a system that

monitors communication at the application layer, which would be necessary to monitor an

HTML web page or email. Russell-Falla do not show or suggest capturing data comprising

multiple half sessions of transport layer network communications.*"

      e.   The examiner notes the claim language states "capturing data on a network".

Russell-Falla teaches capturing of data on a network in the form of a web page in

one embodiment (Col. 4 line 61 - Col. 5 line 21). The claim further recites, "wherein

the data comprises multiple half sessions of transport layer network

communications". It is inherent that any network communication data on a network

such as the Internet/Web (col. 4 line 61 - Col. 5 line 21 and Col. 1 lines 37-45) would

comprise multiple half sessions of transport layer network communications. While

Russell-Falla may not explicitly disclose monitoring implementations at any particular

network layer, this is not claimed. Furthermore, regardless to the network layer

being monitored, the network data is not precluded from having transport layer

properties.

92.   Applicant argues (page 13 of remarks) - "*Nothing in Russell-Fall shows or suggest

the use of categories nor maintaining a sum of values on a category basis as called for in

claim 34.*"

f.   The examiner notes the claim language does not state the use of categor<u>ies</u>.

The claim states "maintaining a sum of values associated with said predetermined

expressions found within <u>at least one category</u>"(emphasis added). Examiner has

already addressed the issue of one category versus plural categories. In regards to

the "maintaining a sum of values", Col. 3 line 65 – Col. 4 line 3 states in part, "Thus,

when the <u>weightings are summed</u> in calculating a rating of a page, the higher the

value the more likely the page meets the selected criterion."(emphasis added). The

weightings are directly related to the predetermined expressions of a category. This

is clearly within the scope of the claim limitation. Furthermore, Applicants only

provide a conclusive statement without asserting factual evidence or errors with the

examiner's interpretation of the art. As such, Applicant's arguments are not

persuasive.

93.   Applicant argues (page 13 of remarks) - "*Further, claim 55 calls for storing the
remaining data if the sum of values associated with said predetermined expressions present
within a category exceeds a threshold value. Russell-Falla do not show or suggest storing
any data, only forwarding the data to an administrator*"

g.   The examiner notes that as part of the entire testing process, it is inherent

that the data is stored in some manner. Data can't be manipulated and analyzed

(Col. 5 lines 5-11, Col. 3 line 36 – Col. 4 line 3) without being stored in some

manner. While the type of storage is not explicitly stated in Russell-Falla, the claims

do note define any limitations on a type of storage as opposed to Claim 1.

Furthermore, as stated by applicant, the data is forwarded to an administrator where

it is subsequently reviewed by the administrator (Col. 6 line 29-34). In order to

receive and subsequently review the data, a web page in this case, the data would

have to be stored in some manner. Therefore, the teachings of Russell-Falla do

show storage of data and are within the scope of the claimed limitations.

94.   Applicant argues (page 14 of remarks) - *"Further, with respect to claims 13, 30 and*
51, Russell-Falla does not show or suggest a report of any kind, and certainly does not
show or suggest a graphical report of claim 31. The mere mention of a notification in
Russell-Falla does not fairly suggest a report called for in the claims."

      h.   Applicant does not provide any reasoning as to why a notification does not

      fairly suggest a report. The examiner asserts that a notification is a form of reporting

      that would be within the scope the claims. If the administrator is capable of

      reviewing the page in question as a result of the notification (Col. 6 lines 29-34) then

      the notification and further the actual review of the page serve the function of a

      report. Since the administrator must be notified of the page in order to view the

      page, then the report must be a graphical report. While the details of such a

      graphical display of a report are not disclosed, the claim language does not state any

      limitations in regards to the appearance of or information included in the report.

95.   Applicant argues (page 14 of remarks) - *"It is noted that claim 37 calls for a TCP/IP*
network with respect to which the Office action fails to state any rejection."

      i.   The Office Action includes a typo that resulted in claims 35-37 being out of

      order. However, it is clear from the action that rejection was stated in regards to the

      limitation of claim 37 which mirrors the rejection of Claim 11.

96.   Applicant argues (page 14 of remarks) - *"Further, Rajaraman does not teach that the presence of the preselected criterion in at least one of said categories comprises a match in a plurality of categories"*.

    j.   Applicant's arguments are merely conclusive and provide no reasoning or evidence in support thereof. Furthermore, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Conclusion

97.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

    A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Lazaro
April 6, 2005
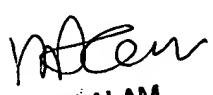
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